

BACKGROUND PAPER FOR HEARING

**CALIFORNIA COUNCIL FOR INTERIOR
DESIGN CERTIFICATION**

**IDENTIFIED ISSUES, QUESTIONS FOR CCIDC, BACKGROUND CONCERNING
ISSUES, AND PRELIMINARY RECOMMENDATIONS**

PRIOR SUNSET REVIEW:

In 1990, the Legislature passed and the Governor signed SB 153 (Craven) (Chapter 396, Statutes of 1990), which provided for a voluntary system whereby an interior designer could become certified and obtain a stamp from an interior design organization by demonstrating their competency by means of education, experience and examination (B&P Code Section 5800 - 5810). The California Council for Interior Design Certification (CCIDC) was established in January 1992, with the intent of being the organization responsible for determining whether interior designers met the education, experience and examination requirements.

The Joint Legislative Sunset Review Committee (JLSRC) last reviewed CCIDC five (5) years ago (1995-96). The JLSRC identified a number of issues and problem areas concerning the voluntary certification system. For example, the JLSRC noted that concerns have been raised that the interior design law provides for a state-sanctioned cartel, which can raise fees and revenues without any oversight, where only a select few are allowed to become certified and any requirement of stamp certification by governmental agencies may restrict competition for a large number of otherwise qualified interior designers. The JLSRC also noted that there is no evidence that eliminating the voluntary certification would endanger the health, safety or welfare of the public or cause significant public harm nor does there appear to be any significant public demand for the regulation of interior designers.

The JLSRC ultimately recommended that the voluntary certification system should be allowed to sunset as of July 1, 1997. On July 1, 1997 the law sunsetted. On August 26, 1997, the voluntary certification system was reconstituted until January 1, 1999, after the Legislature passed and the Governor signed SB 435 (McPherson) (Chapter 351, Statutes of 1997). In 1998, SB 1471 (McPherson) (Chapter 261, Statutes of 1998), which extends the sunset date until January 1, 2002, was passed by the Legislature and signed by the Governor.

In November, 1999 CCIDC submitted its required sunset report to the JLSRC. In this report, information of which is provided in Member's binders, CCIDC describes their activities since the last review.

The following are unresolved issues pertaining to CCIDC or the voluntary certification system, or areas of concern for the JLSRC, along with background information concerning the particular issue. Where necessary, the staff of the JLSRC has made preliminary recommendations for

Members and the Department of Consumer Affairs to consider. There are also questions that staff has prepared concerning the particular issue. These questions were provided to CCIDC and they should address each one.

CURRENT SUNSET REVIEW ISSUES

INTERIOR DESIGN ORGANIZATION ISSUE

ISSUE #1. It is unclear whether this non-profit professional organization, sanctioned in law by the state, is operating purely as a certifying body or is involved in activities more appropriate for a professional membership trade association.

QUESTION #1 FOR CCIDC: *What does CCIDC believe their role is? Does CCIDC believe that they are solely a certifying body? Could CCIDC provide information on their involvement in the legislative process over the last three years?*

BACKGROUND: Under SB 153 (Craven) (Chapter 396, Statutes of 1990), an “interior design organization” was originally defined as a professional society or organization of interior designers with a membership of at least 10 percent of the interior designers in the state for at least the last 5 consecutive years. CCIDC is a private, 501(c)(6), not for profit, mutual benefit corporation. It was established with the intent of being the organization responsible for determining whether interior designers met the education, experience and examination requirements.

In 1995, the Legislature passed and the Governor signed SB 1028 (Marks) (Chapter 891, Statutes of 1995) which changed the definition of "interior design organization" to read, a nonprofit professional organization of certified interior designers whose governing board shall include representatives of the public. According to the bill's sponsor, CCIDC, the bill was necessary to clarify the existing practice and make-up of the current and sole certifying organization in California for interior designers. Additionally, CCIDC indicated at the time that the bill was needed to ensure that for-profit organizations would not be formed to take advantage of the law.

Later that year, the JLSRC posed the issue of whether CCIDC was acting more as a certifying body or an organization/association. The former executive director of CCIDC, Jo-Ellen Chesney, indicated that CCIDC was not created as a professional trade organization/association. Ms. Chesney stated that CCIDC was created solely to establish and enforce a recognized standard of competence, ethics and professionalism. In their current report, CCIDC states that they have followed state law and have patterned themselves after other State professional boards in their dealings with the interior design public and the general public.

However, during the 1999-00 Legislative Session, CCIDC cosponsored AB 1096 (Romero) with the California Legislative Conference on Interior Design (CLCID). AB 1096, which was vetoed by the Governor, would have created a state regulatory Board of Interior Design and established a state regulatory program with respect to interior designers.

BOARD VACANCY ISSUE

ISSUE #2. It is unclear how long the public member vacancies have existed. It is unclear how public members are selected.

QUESTION #2 FOR CCIDC: *Please explain the process that CCIDC uses to select public members. How long have the two public member vacancies existed and how soon will these vacancies be filled?*

BACKGROUND: As discussed in issue #1 above, the interior design organization that certifies interior designers shall include representatives of the public (Business and Professions Code Section 5800(b)). Under the CCIDC's bylaws, the board is composed of not more than nine members, four of whom represent each of the designated professional associations, namely the American Society of Interior Designers (ASID); the International Interior Design Association (IIDA); Interior Design Society (IDS), and International Furnishing and Design Associates (IFDA). There is also a professional member not affiliated with any of these organizations who represents the "independent" or non-affiliated interior designers. Representing the interior design educators is a representative from the Interior Design Education Council (IDEC). Lastly, there are three public member positions on the board, one of which was created by the merger of IBD and ISID into what is now known as IIDA.

There are currently two vacant positions on the board; both public member positions. One of the positions was filled two years ago, but was vacated due to personal constraints of the board member. CCIDC has indicated that no action was taken by the board to fill these two positions because of pending legislation (Romero, AB 1096).

PRELIMINARY RECOMMENDATION: *The Board should seek to fill these open positions as soon as possible and no later than the next Board meeting.*

CERTIFICATION ISSUES

ISSUE #3. It is an unfair business practice for any person to represent to the public that they are "state certified" to practice interior design. It is unclear whether legal action can be taken against individuals who hold themselves out to be certified interior designers but who have not demonstrated their competency to CCIDC.

QUESTION #3 FOR CCIDC: *What does CCIDC do to ensure that CCIDC certified interior designers are not representing to the public that they are "state certified"? Does CCIDC believe existing law clearly protects the term "certified interior designer"? If so, does CCIDC believe there is an enforcement mechanism in place to stop individuals from illegally using this term?*

BACKGROUND: During the last review, the JLSRC found that there appeared to be great potential for confusion and/or misrepresentation by interior designers who use the certification terminology when advertising their services. The JLSRC felt that CCIDC was not authorized to notify non-certified interior designers to cease and desist when they referred to themselves as

“state certified” or “certified.” The appropriate remedy is provided by Business and Professions Code Section 17200 pertaining to “Unfair Business Practices.”

The JLSRC found that there had been some confusion about when a person may advertise as a “certified interior designer,” even though they have not been certified by CCIDC. Business and Professions Code Section 5804 provides that it is unfair business practice for any certified interior designer or any other person to advertise. . . that he or she is “state certified” to practice interior design. The intent of this statute was to prevent the public from being misled that the state was somehow involved in the certification of interior designers, or that the state had created a “Title Act” for interior designers. The JLSRC stated that the law was not intended, as has been argued by CCIDC, that this would prevent anyone else from claiming they were a “certified interior designer.”

There was no intent to create any exclusive certification program under CCIDC. One or more certification design organizations could have been formed under Business and Professions Code Section 5800. There was also the recognition that other professional organizations certified interior designers.

ISSUE #4. CCIDC believes that it has limited disciplinary powers to either revoke or suspend a person’s certification.

QUESTION #4 FOR CCIDC: *Does CCIDC have this type of authority? If so, do they provide a due process procedure? Does CCIDC believe they have the authority to require a CID to take remedial education?*

BACKGROUND: Since CCIDC has been recognized by the state as an entity authorized to administer voluntary certification, it seems that the authority to deny or revoke certification for failure to meet the defined eligibility requirements and qualification standards would be appropriate, provided due process is afforded. In comparison, Business and Professions Code Sections 475 - 499 provides guidance to DCA Boards relative to grounds for denial, suspension and revocation, including a due process procedure. Some of the listed acts which a Board can take into consideration include (1) knowingly making a false statement of material fact in the application for a license; (2) conviction of a crime; and (3) commission of any act involving dishonesty, fraud or deceit. Additionally, the law requires Boards to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension or revocation of a license.

ISSUE #5. CCIDC believes that they do not have the authority to refer complaints about non-CIDs to the Attorney General or any other legal authority.

QUESTION #5 FOR CCIDC: *Does CCIDC need legal authority in order to refer complaints?*

BACKGROUND: In their current report to the JLSRC, CCIDC states that they are a private organization and have no legal authority to enforce a complaint against an interior designer whether certified or not. Additionally, they state that they have no legislative authority to refer disciplinary cases to the Attorney General, local district attorneys or courts for adjudication.

ISSUE #6. It is unclear whether proof of experience alone would be a sufficient indication of competency.

QUESTION #6 FOR CCIDC: *Does CCIDC have any thoughts on whether proof of diversified interior design experience alone would be an adequate indication of a person's competency?*

BACKGROUND: In 1991, SB 667 (Craven) (Chapter 343, Statutes of 1991) was passed by the Legislature and signed by the Governor. It “grandfathered in” interior designers who: (1) applied for certification no later than December 31, 1992; (2) had a combination of eight years of interior design education and experience; and, (3) provided evidence of passage of the Building and Barrier Free Codes section of the NCIDQ examination no later than December 31, 1993 (Business and Professions Code Section 5801.1 - inoperative January 1, 1994).

During the previous review, the JLSRC found that out of 5,798 applications submitted, 3,431 were currently certified and 2,748 of those were grandfathered in under former Section 5801.1. The JLSRC expressed concern about how many otherwise competent interior designers may have been prevented from seeking certification.

CCIDC's current report to the JLSRC states that the grandfathering clause was intended to allow designers, with experience only or other qualifications such as some education and experience, and who were immersed in their day-to-day business of working as interior designers or running their own design firms, an opportunity to become “certified” without having to re-attend school and take exams that possibly weren't around when they graduated or started work. They still had to take and pass one part of the six part NCIDQ exam, “the Building and Barrier Free Codes” portion, to demonstrate that they were up-to date on all the current handicap access codes, and they had to further demonstrate that they had a minimum of eight (8) years of actual interior design education and/or working experience.

The California Codes and Regulations Exam (CCRE) was developed in 1994-95 to test the applicant's knowledge of California-specific standards related to Building and Barrier Free Codes.

ISSUE #7. It is unclear whether CLCID is still involved in the certification process.

QUESTION #7 FOR CCIDC: *Does CCIDC still forward applications to CLCID? If so, can CCIDC explain the appropriateness of such an action?*

BACKGROUND: CLCID is a coalition organization representing over 5,000 interior designers in the state of California. CLCID is composed of representatives from each of the chapters of the professional organizations in the state, as well as independent representatives from Northern and Southern California.

In CCIDC's 1995 report to the JLSRC, they stated that after SB 153 (Craven) (Chapter 396, Statutes of 1990 took effect, CLCID (“the initial interior design organization”) appointed a multidisciplinary task force of interior designers to plan implementation of voluntary certification. The result of their efforts was to establish CCIDC. CCIDC's 1995 report also indicated that CCIDC and CLCID had developed a certification process. Applicants would submit an application form along with all required supporting documents to CCIDC. CCIDC

staff would perform an initial review to ascertain completeness. The Compliance Committee of the CCIDC Board of Directors would then evaluate each applicant's qualifications to determine eligibility and make a recommendation to the CCIDC Board. The CCIDC Board then forwarded the list of applicants who met all standards for certification to CLCID for ratification. According to CCIDC, this two-step process was developed pursuant to an administrative service agreement between CCIDC and CLCID to ensure the impartiality of certification. Upon ratification by CLCID, the applicant would receive notification of their eligibility to for certification.

EXAMINATION ISSUES

ISSUE #8. The legitimacy and relevance of the two additional examinations that have been accepted by CCIDC since their last review is unknown.

QUESTION #8 FOR CCIDC: *Does CCIDC believe the two new examinations are comparable to the NCIDQ examination? What has CCIDC done to ensure that all three examinations meet the legal standards for occupational analyses?*

BACKGROUND: In their current report, CCIDC states that as of this year they have adopted two more national interior design examinations in addition to that of the previously accepted National Council for Interior Design Qualification (NCIDQ) examination. The examinations are offered by the Council for Qualification of Residential Designers (CQRID) and the National Kitchen and Bath Association (NKBA). In order to keep the profession up-to-date for the protection of consumers, CCIDC has now made certification available to the largest possible percentage of practitioners.

CCIDC's report indicates that the entire six part NCIDQ examination has been redeveloped and reconstituted in FY 2000 by NCIDQ into a three part examination. October 2000 is the first date the examination has been given in its new format. The redevelopment of the NCIDQ examination was conducted under the direction of a national testing company and their senior psychometrician. The content of the NCIDQ examination is based on a job analysis of the interior design profession (updated in 1999) and focuses on areas related to the health, safety and welfare of the public. The content of the examination is divided into six domains and five critical issues. Overall 31.1% of the examination measures health, safety and welfare issues directly. 26.9% of the examination measures knowledge related to business, law and ethics. The remaining 42% of the exam measures knowledge related to function and design synthesis, which are areas critical to the safe and effective design of spaces.

CCIDC's report states that a formal job analysis was done by the University of North Carolina (UNC) for the interior design field in 1991. UNC recommended the development of an examination related specifically to residential interior designers. Professional Exam Services of New York oversaw the development of the CQRID examination. The first CQRID examination was given in 1993 and has been given every year since in numerous States throughout the United States. CCIDC's report states that in both Wisconsin and California, psychometric reviews have validated the CQRID examination. If challenged it will stand up in a court of law. The CQRID examination is currently administered by the Center for Credentialing and Education in Greensborough, North Carolina. The proctors are paid and independent of the interior design industry.

The NKBA certification examination format was modified in 1997 to its current format. CCIDC's report states that this new examination had been proven psychometrically sound by Columbia Assessment Services, Inc. and has been demonstrated to be valid and defensible. While the certification examination has been in existence since 1968, results prior to 1997 have not been included in this report since the material, testing format, and scoring process had not been psychometrically evaluated.

ISSUE #9. It is unclear whether the NCIDQ examination is offered often enough. Additionally, it is unclear when the other two national examinations and the California Codes and Regulations examination are offered.

QUESTION #9 FOR CCIDC: *Can CCIDC provide further information on when the other examinations are offered? Does CCIDC believe twice yearly is enough and has consideration been given to computerized examinations?*

BACKGROUND: According to CCIDC's report, the NCIDQ examination is given twice a year, in April and October. NCIDQ administers both their examination and the CCRE. CCIDC has reviewed NCIDQ's test administration standards to ensure they meet California's needs. CQRID and NKBA will also be administering the CCRE and their test administration standards will be reviewed in the coming year.

ISSUE #10. It is unclear why the California Codes and Regulations examination (which consists of 75 multiple choice questions) is needed and whether any of its questions overlap with questions asked by the national examinations.

QUESTION #10 FOR CCIDC: *Can CCIDC explain the rationale for this additional examination? Does CCIDC believe that any of the 75 questions overlap with any of the questions asked by any of the other examinations?*

BACKGROUND: In FY 1994/95, CCIDC spent \$45,000 developing a supplemental examination for certified interior designers, the California Codes and Regulations Exam (CCRE). The CCRE was initially formed to cover specific California building codes which at that time were not in place on a national level, as they are now with laws like the Americans with Disabilities Act, for example. Additionally, it was developed to test applicant's knowledge of California-specific standards related to Building and Barrier Free Codes. This is a 45-minute examination consisting of 22 multiple choice questions, based specifically on California Building Codes and Title 24 Accessibility regulations.

CCIDC states that the new version of the CCRE, currently under final development, will consist of 75 multiple choice questions instead of the original 22. The test will cover business practices, ergonomics and ethics, among other topics relative to interior designers as well as a host of questions on California building codes, fire safety, occupancy and exiting, ADA and Title 24 accessibility codes.

FEE ISSUE

ISSUE #11. It unclear whether CCIDC's revenues are greater than their expenditures.

QUESTION #11 FOR CCIDC: *Why does CCIDC think they have incurred substantial financial losses? Why does CCIDC believe they need a 6 month reserve? Can CCIDC explain their expenditures and their revenue to expenditure ratio and provide a breakdown of all costs?*

BACKGROUND:

During CCIDC's prior review, the JLSRC expressed concern over CCIDC's high fund balance. At the time, CCIDC had \$550,000 in excess revenues. The JLSRC pointed out that while its yearly budget started out as approximately \$208,000 it had grown to over \$471,000 by 1995. It appeared that most of the cost was for salaries and use of consultants (accountants, attorneys, lobbyists, public relations and others). The JLSRC pointed out that the fund balance for 1994, and up to 1996, would still exceed one year's budget expenditures.

The Legislature has made a concerted effort over the past two years to lower the reserves (excess revenues) of its consumer-related boards, and provide when possible a proportionate decrease in the amount of fees paid by licensees. Three months of reserves have been considered as financially prudent, and the Legislature has warned boards to make the appropriate reductions in fees.

CCIDC's main source of revenues is the \$200.00 renewal fee, which is assessed every two years. CCIDC has maintained this fee since its inception 8 years ago, as it had acquired a large reserve from the initial application fee (\$150.00) from almost 6,000 interior designers wanting to become certified. CCIDC states that over the past 5 years, this reserve has been used to supplement CCIDC's income to enable it to create consumer awareness brochures, its web site, and many other programs, plus dealing with the Sunset legislation from 1995.

CCIDC has set the current year reserve levels at 6 months using a figure of \$19,000.00 per month for expenditures. Based on this number and the projected income for the next 3 years, CCIDC does not foresee a deficit.

REGISTRATION ISSUE

ISSUE #12. It is unclear how many of the 60 applications that CCIDC has received over the past four years were first time applicants and how many were reapplying because they failed to renew. Additionally, it is unclear how the 60 applicants compares to the number of interior design school graduates during that same time period.

QUESTION #12 FOR CCIDC: *Can CCIDC explain which of the 60 applicants were first time applicants? Can CCIDC provide the number of interior design school graduates over the past four years? Can CCIDC explain what efforts are made to inform students about CCIDC?*

BACKGROUND: During the last review, the JLSRC noted that since the grandfathering provision was eliminated, it appeared that less than 1/3 of about 300 graduates per year from

design schools sit for the NCIDC exam. CCIDC has indicated that they have received 60 applicants over last 4 years.

RENEWAL ISSUE

ISSUE #13. CCIDC has expressed an interest in changing the current biennial renewal schedule to a yearly renewal.

QUESTION #13 FOR CCIDC: *Does CCIDC believe a yearly renewal schedule will be more efficient and cost effective?*

BACKGROUND: CCIDC indicates that the certification totals held steady for 1996/97 and 1997/98 but have started to decline in 1998/99 and 1999/00. This has been mainly due to CIDs moving and not notifying CCIDC of their new addresses. Some of these CIDs have started to realize their certification has expired and are beginning to contact CCIDC to renew. So far, in the 1999/00 year, CCIDC has renewed 45 expired CIDs whose mail was previously returned as undeliverable. CCIDC believes part of the problem is the two-year renewal cycle for certification. Post offices mail forwarding instructions only last one year unless renewed.

INACTIVE STATUS ISSUE

ISSUE #14. It is unclear what efforts CCIDC makes to ensure that CIDs are aware that CCIDC offers an inactive status option.

QUESTION #14 FOR CCIDC: *What does CCIDC do to inform CIDs of the inactive status option? Does an inactive CID need to provide proof that they have attended continuing education classes to reactivate?*

BACKGROUND: The cost for “inactive” status is \$25.00 per year in accordance with CCIDC’s Rules and Regulations. An inactive person is not allowed to use a stamp, an I.D. card stating they are certified or the appellation “CID” after their name. They can reactivate their certification at any time by paying the full biennial fee (\$200.00) and they will receive a new stamp and I.D. card. Inactive CID’s continue to receive newsletters and other communications from CCIDC. There are currently 132 inactive CIDs.

CCIDC USE OF THE INTERNET ISSUE

ISSUE #15. It is unclear whether some of the information provided on CCIDC’s website accurately portrays the role of CCIDC and the state relative to CIDs.

QUESTION #15 FOR CCIDC: *Does CCIDC believe that they accurately portray the role of CCIDC and the state relative to CIDs?*

BACKGROUND: CCIDC has a page on their website where individuals can obtain information on why they should hire a certified interior designer. One of the reasons given is as follows:

“In California, there's a significant group of interior designers who are considered the best in the business. No, it's not because their clients are the rich and famous, it's because they're the most well educated and competent designers around. Who says so? The state of California does.”

Two additional pages entitled “Fact Sheet” and “About CCIDC” provide the following:

- “The California Council for Interior Design Certification (CCIDC), was established in January 1992 as the entity responsible for administration of the requirements of the Certified Interior Designers Law under Chapter 3.9, Section 5800 of the California Business and Professions Code.
- Only the CCIDC can determine eligibility to be a Certified Interior Designer in the State of California.
- Designers who meet the education, experience, and examination criteria of the CCIDC Board are allowed to use the CERTIFIED Interior Designer title and are recognized in the State of California.
- Certified Interior Designers, as mandated by the State of California, have met high standards of qualification and have agreed to uphold a strict code of ethics and conduct.”